

Applicant : Michael G. Marcoux et al.  
Appln. No. : 10/563,340  
Page : 9

### REMARKS

A two month extension of time for responding to the Office Action dated January 21, 2009 is requested, and a separate petition to this effect is enclosed.

Claims 1-22, 66, and 67 have been deleted, such that the rejections of these claims in the Office Action dated January 21, 2009 are believed to be moot.

With respect to the rejection of independent claim 71 as being anticipated by Heinecke U.S. Patent No. 5,738,642, claim 71 has now been amended to recite that the continuity of contact between the handle and the underlying second surface of the polymeric film is interrupted by a plurality of deformations in the handle forming a plurality of regions wherein the handle is spaced-apart from the film to define a plurality of tunnels. Support for the amendment to claim 71 can be found at [0065] of the application as filed.

Applicant respectfully asserts that Heinecke '642 does not disclose any such arrangement. Claims are, of course, broadly construed during prosecution. However, even during prosecution claim terms cannot be contorted without bound in an unreasonable manner:

"The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach." MPEP 2111 (emphasis added). MPEP 2111.01(I) states that "words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification." Furthermore "'plain meaning' refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art." MPEP 2111.01(II).

At page 3, the Office Action of January 21, 2009 states that "When the handle (212) is made of a paper (col. 6, lines 10-13) then there would be an electrostatic attraction between the handle (212) and the polymeric file (214). The handle (212) comprises a conductive layer, which is the low adhesion coating (col. 6, lines 30-46), and a non-conductive layer, which is the polymeric material (col. 6, lines 10-13). The handle (212) is fully capable of being adhered to the polymeric film (214) in a non-use state and separated from the polymeric film (214) during a transient configuration."

These assertions in the Office Action are puzzling given that none of the claims rejected over Heinecke '642 recite any such features.

With respect to independent claim 72, the Office Action of January 21, 2009 states that "Heinecke '432 teaches a dressing to (210) comprising a plurality of discrete openings (230, 232, 234, 236)." However, claim 72 recites "a plurality of discrete openings in the handle defining edges that do not connect to the peripheral edge of the handle." (emphasis added)

Applicant has reviewed Heinecke '432 in detail, and can find no openings in a handle defining edges that do not connect to the peripheral edge handle. Rather, the slits 230, 232, 234, and 236 of Heinecke '432 (col. 6, lines 54-59; Fig. 5) clearly do connect to the peripheral edges of the carrier frame 226, in direct contrast to the arrangement of claim 72.

With respect to independent claim 73, at page 7, the Office Action states that "Dozier teaches a dressing (10) comprising a handle (20) adhered (18) to a layer (14) with a tab 20 projecting inward (Fig. 4). . . . Therefore, it would have been obvious to one of ordinary skill in the art . . . to modify the handle with the tab".

Applicant respectfully asserts that the tab 21 of Dozier '606 actually projects outwardly. For those reasons discussed in more detail below, Fig. 4 of Dozier '606 is believed to be in error to the extent it suggests tab 21 may extend inwardly.

Tab 21 is clearly shown as projecting outwardly in Figs. 1 - 3, 5 and 6. Also, the description for Fig. 4 states "Fig. 4 is a bottom plan view of the wound dressing with a portion of the release strip removed". Thus, Fig. 4 is not described as being an alternate embodiment.

Furthermore, Applicant can find no description in Dozier '606 to the effect that the tab 21 may extend inwardly. Still further, as shown in Fig. 5 and described at col. 2, line 55-col.3, line 3, the wound dressing 10 of Dozier '606 is applied by first placing the wound dressing 10 over a wound "W", with the release sheet 20 positioned against a patient's skin "S". Dozier '606 states "With pressure being applied by the user to the wound dressing 10 to hold [sic] same in place, the user then grasps the tab 21 and pulls upwardly and trans-laterally in a spiral annular configuration severing the frangible perforation line 23 allowing the release sheet 20 to be pulled thereabout and outwardly from under the bottom surface 17 of the raised annular band portion 14 . . . Simultaneously exposing the adhesive coating 18 to the user's skin S

there beneath floor adhesion." (col. 2, line 61 - col. 3, line 3). Clearly, it would be difficult, if not impossible, to grasp the tab 21 while the dressing 10 were positioned against the patient's skin S as shown in Fig. 5 if the tab 21 projected inwardly. Dozier '606 describes part number 16 as being "sterile absorbent material" (col. 2, lines 17-18). If the tab 21 projected inwardly, it would overlies the sterile pad 16, and a user would have to insert his/her finger between the tab 21 and the (previously) sterile pad 16 to grasp the tab 21. Also, if the wound dressing 10 were placed over a patient's wound W as shown in Fig. 5 prior to removal of release sheet 20, and if tab 21 did extend inwardly, the tab 21 would be positioned directly adjacent the wound W. A user would have to insert his/her finger under the dressing 10 directly into the wound W and into contact with the (previously) sterile pad 16. This would clearly be an unworkable/impractical arrangement. Thus, Fig. 4 of Dozier '606 is believed to be in error, such that no combination of Heinecke '642 and Dozier '606 could anticipate claim 73.

New claim 75 is somewhat similar to claim 72, and further recites that the handle is electrostatically adhered to the second side of the polymeric film without adhesive material. Support for new claims 75-107 can be found at page 6, lines 1-26 and Figs. 1-4.

New independent claim 95 recites, among other features, a handle defining a plurality of second cuts through the handle, wherein first and second opposite ends of the second cut are spaced apart from interior and exterior edges of the handle. The cited references are not believed to disclose and such arrangement.

As discussed above, it is somewhat unclear why the Office Action of January 21, 2009 asserts that Heinecke '642 discloses a conductive layer and an electrostatic attraction given that none of claims 1, 66, or 71 recite any such arrangement. "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" MPEP 2112(IV), citing *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)(quoting *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 20 USPQ2d 1746, 1749

Applicant : Michael G. Marcoux et al.  
Appln. No. : 10/563,340  
Page : 12

(Fed. Cir. 1991))(emphasis added). There is no evidence of record that one skilled in the art would consider polyvinyl N-octadecyl carbonate (Heinecke, col. 6, lines 30-31) to be a "conductive layer". Also, Applicant has reviewed Heinecke '642 in detail, and can find no disclosure to the effect that "there would be an electrostatic attraction between the handle (212) and the polymeric film (212)". Applicant reiterates that inherency requires that "the missing descriptive matter is necessarily present" and that "the mere fact that a certain thing may result from a given set of circumstances is not sufficient." MPEP 2.112 (IV)

Applicants have made a concerted effort to place the present application in condition for allowance, and a notice to this affect is earnestly solicited.

Respectfully submitted,

June 22, 2009  
Date

/Jeffrey S. Kapteyn/  
Jeffrey S. Kapteyn  
Registration No. 41 883  
Price, Heneveld, Cooper, DeWitt & Litton, LLP  
695 Kenmoor, S.E.  
Post Office Box 2567  
Grand Rapids, Michigan 49501  
(616) 949-9610

JSK/slg